
Water Quality Standards on Tribal Lands

1991 AMENDMENTS TO WQS REGULATION

Main Components:

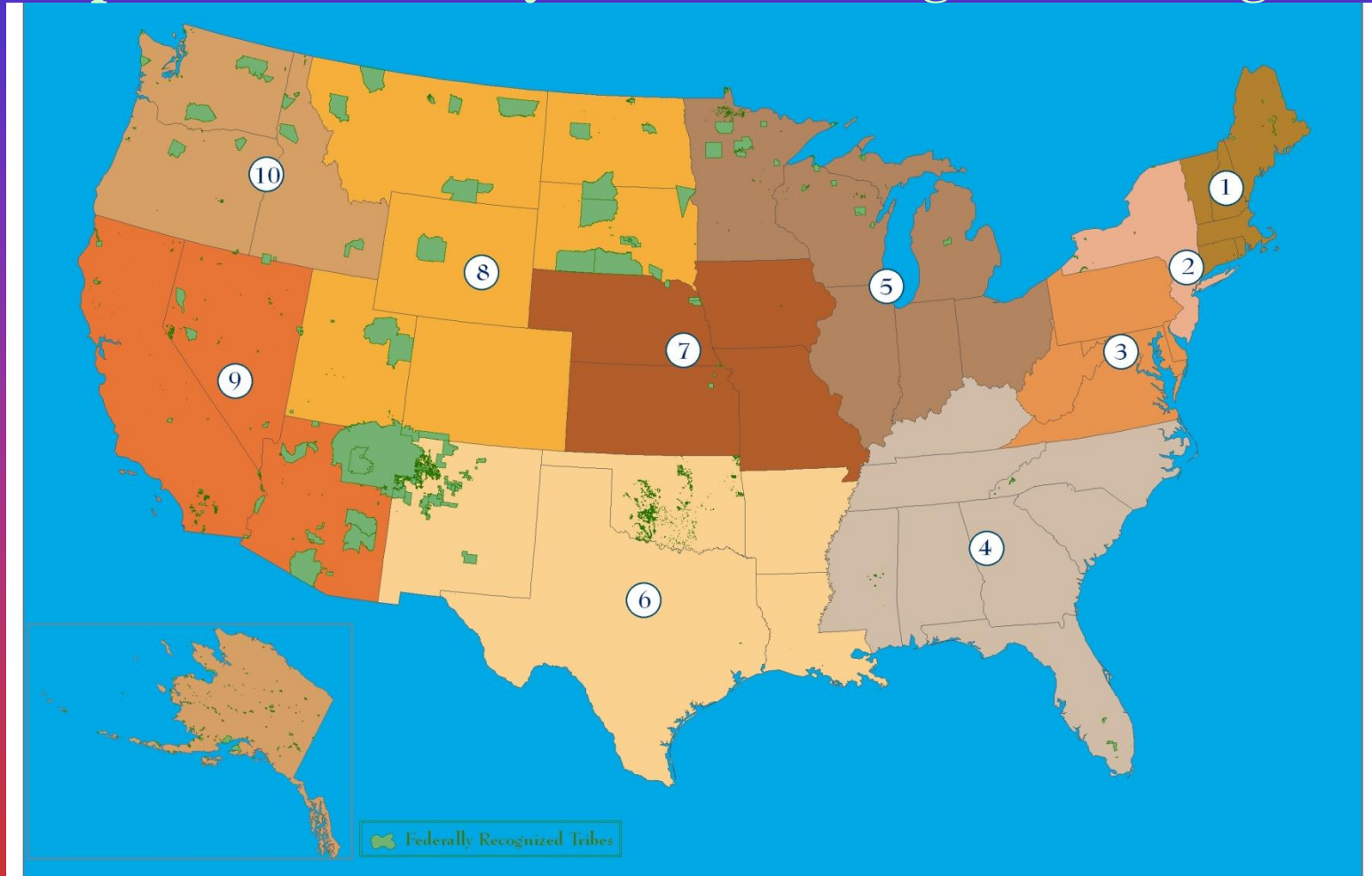
- Sets Procedures for Tribes To Become Eligible to Administer the Water Quality Standards Program
- Creates Dispute Resolution Mechanism

DEFINITIONS

- **Tribe = Indian Tribe, Band, Group, or Community federally recognized by the Secretary of the Interior**
- **Indian Country =**
 - **All land within exterior boundaries of any Reservation of a Tribe**
 - **All Dependent Indian Communities within US borders**
 - **All individual Indian Allotments within US borders**

INDIAN COUNTRY

Map of Indian County within EPA Regions 1 through 10



This map is intended to provide a general understanding of the location of Indian Country, but is not intended as a legal representation.

STEPS TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

Step 1: Tribe applies for TAS for WQS

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Step 2: EPA finds Tribe eligible for TAS if:

- ⚙ Recognized by DOI**
 - ⚙ Governing Body**
 - ⚙ Authority to Regulate Water Quality***
 - ⚙ Management Capability**
- Must show inherent regulatory authority; additional showings needed if Reservation includes non-member owned fee lands. Different procedures apply to tribes located in OK**

CRITERIA TO ADMINISTER THE WQS PROGRAM: 40 CFR 131.8

Step 3: Tribe develops their WQS

- ⊗ Submit WQS to EPA**

Step 4: EPA Approves Tribe's WQS if:

- ⊗ Tribe meets same requirements as for states' WQS**

TAS STRATEGY

EPA recently developed new “TAS Strategy” designed to improve efficiency of EPA’s TAS reviews:

- More tools for Tribal TAS applicants**
- Fosters communication w/ Tribes before and during review**
- Notifies EPA Sr. Mgt. when a review is not moving forward appropriately**

EPA'S APPROACH TO DISPUTE RESOLUTION

**Mechanism for Resolving Unreasonable
Consequences That Arise as a Result
of Different WQS Set by States and Indian
Tribes on a Common Body of Water**

- **Mediation**
- **Arbitration**
- **Default Procedure**



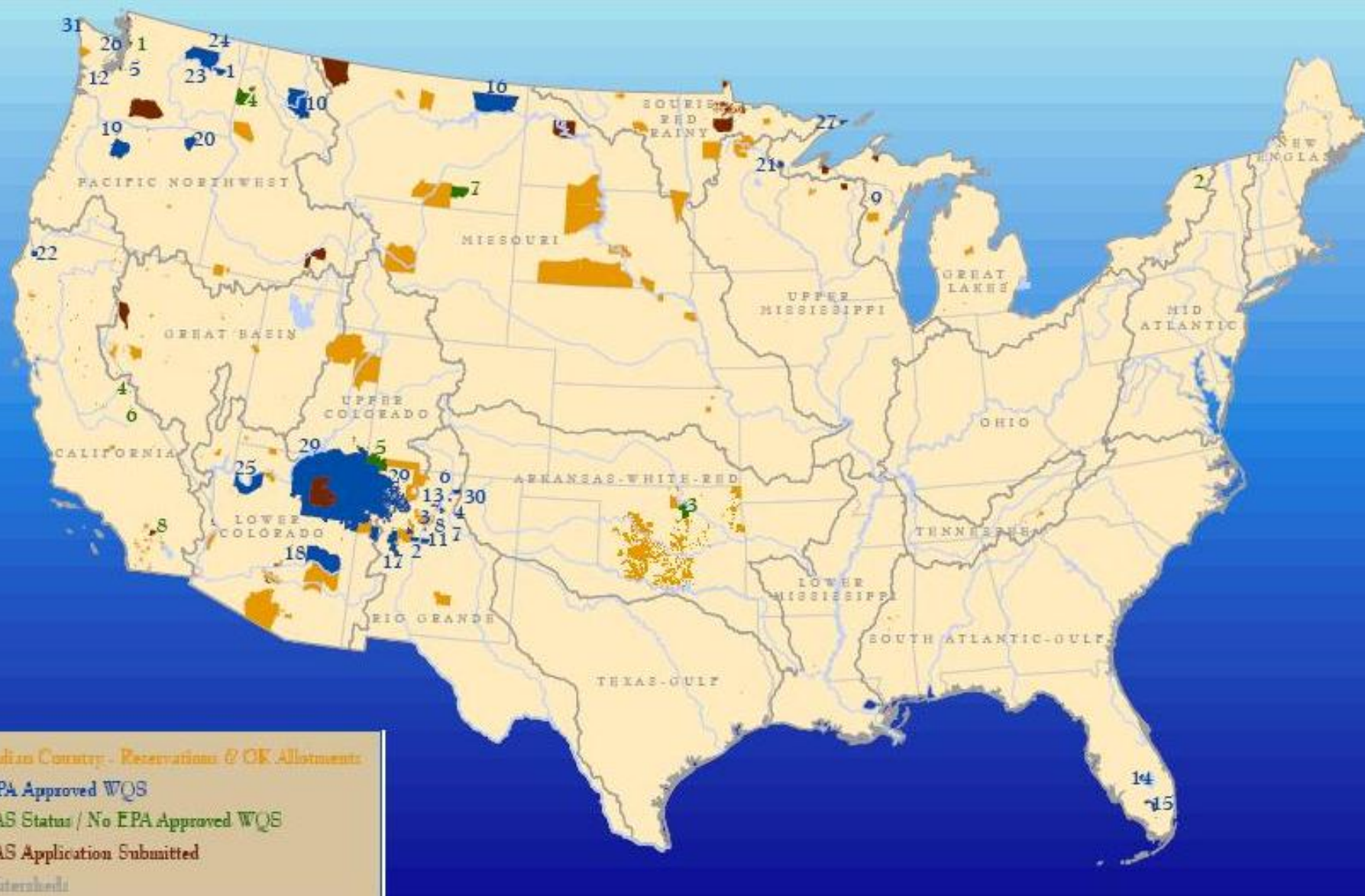
WQS IN INDIAN COUNTRY

As of November 2011, 47 Tribes have TAS for Water Quality Standards.

Most of those ~47 Tribes have adopted WQS; others are in the process of developing WQS.

Several more Tribes are currently going through the TAS submission/approval process.

WQS IN INDIAN COUNTRY



Additional Information

•Indian Tribal Approvals

- <http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvtable.cfm>

•EPA's Tribal Programs

- <http://www.epa.gov/indian/trprograms/env-programs.htm>

•EPA Indian Policies

- <http://www.epa.gov/tp/basicinfo/presidential-docs.html>

•Strategy for Reviewing Tribal Eligibility Applications to Administer EPA Regulatory Programs – TAS Strategy

- <http://www.epa.gov/tp/pdf/strategy-for-reviewing-applications-for-tas-01-23-08.pdf>

Additional Information

•CWA Tribal Training Web site

- <http://water.epa.gov/learn/training/tribaltraining/index.cfm>

•Tribal Case Studies

- http://water.epa.gov/scitech/swguidance/standards/upload/2006_07_31_tribes_flathead.pdf
- http://water.epa.gov/scitech/swguidance/standards/upload/2006_07_31_tribes_hoopa.pdf
- http://water.epa.gov/scitech/swguidance/standards/upload/2006_07_31_tribes_sokaogon.pdf
- http://water.epa.gov/scitech/swguidance/standards/upload/2006_07_31_tribes_hualupai.pdf
- http://water.epa.gov/scitech/swguidance/standards/wqslibrary/upload/2003_04_15_tribes_fortp_eck.pdf
- http://water.epa.gov/scitech/swguidance/standards/wqslibrary/upload/2003_04_15_tribes_seminole.pdf

•Tribal Videos

- <http://water.epa.gov/scitech/swguidance/standards/wqslibrary/video.cfm>

Review Question #1

- Which of the following is not a requirement for Tribes applying for the water quality standards program?
 - a. Recognition by the Department of the Interior
 - b. Management and technical skills necessary to carry out the functions of an effective water quality standards program
 - c. A governing body that carries out substantial governmental duties and powers
 - d. None of these (a-c) is a requirement
 - e. All of these (a-c) are requirements

Review Question #1

- Which of the following is not a requirement for Tribes applying for the water quality standards program?
 - a. Recognition by the Department of the Interior
 - b. Management and technical skills necessary to carry out the functions of an effective water quality standards program
 - c. A governing body that carries out substantial governmental duties and powers
 - d. None of these (a-c) is a requirement
 - e. All of these (a-c) are requirements
- Answer:
 - b. Tribes either may have the necessary management and technical skills or may submit a plan describing the steps for acquiring these skills.

Review Question #2

- **True or False. A tribal application for the water quality standards program should include a listing of surface waters for which water quality standards will be proposed.**

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- **True or False. A tribal application for the water quality standards program should include a listing of surface waters for which water quality standards will be proposed.**
- **Answer:**
 - **True. The application must include a descriptive statement of the Tribe's authority to regulate surface water quality, and that statement must identify the surface waters for which the Tribe proposes to establish water quality standards.**

Review Question #3

- **True or False. An Indian Tribe must have managed comparable programs before it is eligible to administer a water quality standards program.**

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- **True or False. An Indian Tribe must have managed comparable programs before it is eligible to administer a water quality standards program.**
- **Answer:**
 - **False. EPA looks for indications that the Tribe is capable of administering a water quality standards program. This could mean that the Tribe participated in programs that were administered by EPA or other Federal agencies and not by the Tribe itself.**

Review Question #4

- **True or False. A State that is affected when an Indian Tribe obtains the authority to administer a water quality program can overturn the decision that granted the authority.**

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- **True or False. A State that is affected when an Indian Tribe obtains the authority to administer a water quality program can overturn the decision that granted the authority.**
- **Answer:**
 - **False. Although public comments are allowed, only EPA can make the decision to grant or deny a Tribe's application for the water quality standards program.**

Review Question #5

- **Which of the following is not an EPA mechanism for dispute resolution?**
 - **a. Mediation**
 - **b. Arbitration**
 - **c. Dispute resolution default procedure**
 - **d. EPA employs all of the above**

Review Question #5

- **Which of the following is not an EPA mechanism for dispute resolution?**
 - a. Mediation
 - b. Arbitration
 - c. Dispute resolution default procedure
 - d. EPA employs all of the above
- **Answer:**
 - d. EPA uses all of these mechanisms.